

PATENT

Atty Docket No.: 200308756-02

App. Ser. No.: 10/840,221

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the claim amendments and following remarks.

By virtue of the amendments above, Claims 1, 2, 5, 7, 9, 10, and 12-17 have been amended and Claims 18 and 19 have been added. Accordingly, Claims 1-19 are pending in the present application, of which Claims 1, 2, 9, 12-14, 16, and 17 are independent.

No new matter has been introduced by way of the claim amendments or additions; entry thereof is therefore respectfully requested.

Drawings

The indication that the drawings submitted on May 7, 2004 have been accepted is noted with appreciation.

Claim for Priority under 35 U.S.C. §119

The acknowledgement that all of the certified copies of the priority documents have been received is also noted with appreciation.

Specification

The URL recited on page 2, line 2 has been amended to be written text form as suggested in the Official Action. The Examiner is therefore respectfully requested to withdraw the objection to the Specification.

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Claim Rejections under 35 U.S.C. §101

The Official Action rejected Claims 14-17 as allegedly being directed to non-statutory subject matter. More particularly, the Official Action asserted that the terms "computer program product" and "data structure" are directed to unpatentable subject matter. Each of Claims 14-17 has been amended so as to be directed to a computer readable storage medium on which is stored a computer program product or a data structure. Support for these amendments may at least be found in the paragraph beginning on page 16, line 17 of the Specification.

Accordingly, the Examiner is respectfully requested to withdraw the rejection of Claims 14-17.

Claim Rejection Under 35 U.S.C. §112, first paragraph

The Official Action rejected Claim 5 as allegedly being indefinite for allegedly failing to comply with the enablement requirement. By virtue of the amendments above, Claim 5 has been amended to recite that the component arrangement information and the component diagram data are stored independently of each other. As such, Claim 5 has been amended to clarify that the term "independent" is intended to signify the independent storage of the component arrangement information and the component diagram data. Support for this amendment may at least be found in Figure 1, which depicts the component arrangement information and estimate information database 130 as comprising a separate database from the component diagram database 150.

Accordingly, the Examiner is respectfully requested to withdraw the rejection of Claim 5.

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Claim Rejection Under 35 U.S.C. §112, second paragraph

The Official Action rejected Claim 1 as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 has been amended in various respects to better comply with the provisions of 35 U.S.C. §112, second paragraph. More particularly, lines 4 and 5 of Claim 1 have been amended to more clearly recite that the merchandise information provider terminal is adapted to be responsive to estimate information and is also adapted to be responsive to a drawing-functional component diagram. In this regard, the merchandise information provider terminal is configured to receive component arrangement information and estimate information which are stored in a component arrangement information and estimate information database, and a drawing-functional component diagram, which is stored in a component diagram database.

In addition, the terms "drawing-purpose" has been amended to "drawing-functional" to correct a typo graphical error.

As all of the issues regarding Claim 1 have been addressed and overcome, withdrawal of the rejection is respectfully requested.

Claim Rejection Under 35 U.S.C. §103

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in *KSR International Co. v. Teleflex Inc.*, 550 U.S., 82 USPQ2d 1385 (2007):

"Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary

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considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented." Quoting *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1 (1966).

As set forth in MPEP 2143.03, to ascertain the differences between the prior art and the claims at issue, "[a]ll claim limitations must be considered" because "all words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385. According to the Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in view of *KSR International Co. v. Teleflex Inc.*, Federal Register, Vol. 72, No. 195, 57526, 57529 (October 10, 2007), once the *Graham* factual inquiries are resolved, there must be a determination of whether the claimed invention would have been obvious to one of ordinary skill in the art based on any one of the following proper rationales:

(A) Combining prior art elements according to known methods to yield predictable results; (B) Simple substitution of one known element for another to obtain predictable results; (C) Use of known technique to improve similar devices (methods, or products) in the same way; (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results; (E) "Obvious to try"—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success; (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art; (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention. *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, 82 USPQ2d 1385 (2007).

Furthermore, as set forth in *KSR International Co. v. Teleflex Inc.*, quoting from *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006), "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasonings with some rational underpinning to support the legal conclusion of obviousness."

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Therefore, if the above-identified criteria and rationales are not met, then the cited reference(s) fails to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited reference(s).

Claim 1

Claim 1 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Application Publication No. 2003/0172003 to Holbrook et al. in view of official notice. This rejection is respectfully traversed for at least the following reasons.

Claim 1 of the present invention, as amended, pertains to a system for forming a drawing of a system having a plurality of components. The system for forming includes a merchandise information provider terminal, a component information and estimate information database, a component diagram database that comprises a physically separate database from the component arrangement information and estimate information database, a database server, and a web and application server. By having separate databases for the component diagram and the component arrangement information and estimate information, separate program portions having data about components within a drawing are separated from other portions of the program.

As discussed in the paragraph beginning on page 2, line 19 of the Specification, separating the program portions in this manner generally "reduces program changes caused by changes in the component data" and improves cost efficiency. In addition, separation of the program portions enables the use of relatively less expensive PC servers as opposed to high-end servers equipped with high-speed processors when the program portions are combined.

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With reference now to Holbrook et al., there is disclosed a method and a system for designing furniture through use of a computer software tool that includes a database 106 of modular furniture components. The database 106 includes a description, price, technical specification, etc., for the modular furniture components. [par. 0005]. The tool also provides users with the ability to design a system of components and the tool automatically provides a report that includes the total cost, a parts list, an order form, etc., from the design. [0005] As shown in Figure 1 of Holbrook et al., a server 104 is configured to perform all of the functions of the tool discussed above and to access the database 106 in performing those functions. As such, Holbrook et al. specifically discloses a single server 104 and a single database 106.

The Official Action acknowledges that Holbrook et al. fails to disclose a database server distinct from a web and application server, such that, the web and application server receives component arrangement information corresponding to the received condition from the database server. In an effort to make up for this deficiency in Holbrook et al., the Official Action takes official notice that database servers are known, and that Holbrook et al. discloses, in paragraph 29 that "[t]he invention can also be practiced in distributed computing environments". Based upon these assertions, the Official Action concludes that it would have been obvious to include a database server in Holbrook et al. to reject Claim 1.

Although Holbrook et al. discloses that the system can be practiced in a distributed computing environment, the Official Action has failed to establish that the proposed modification to Holbrook et al. would yield the present invention as claimed in Claim 1. More particularly, the Official Action has failed to establish that breaking up the operations of the server 104 and the database 106, such that they comprise a distributed computing

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environment yields the combination of components recited in Claim 1. For instance, the Official Action has failed to demonstrate that the proposed modification of Holbrook et al. would provide a separate component arrangement information and estimate information database for storing component arrangement information and estimate information and a component diagram database for storing the drawing-functional component diagram. In addition, the Official Action has failed to establish that modifying Holbrook et al. to include the features of Claim 1 would have been obvious to one of ordinary skill in the art.

Instead, the Official Action has merely asserted that a database server may be added to Holbrook et al. As such, even assuming for the sake of argument only that the modification of Holbrook et al. proposed in the Official Action were somehow considered proper, the proposed modification would still fail to yield the present invention as claimed in Claim 1. More particularly, for instance, the proposed modification would still fail to disclose a component arrangement information and estimate information database for storing component arrangement information and estimate information that is separate from a component diagram database for storing the drawing-functional component diagram.

Accordingly, the proposed modification of Holbrook et al. fails to yield all of the features of independent Claim 1, and therefore, a *prima facie* case of obviousness has not been established under 35 U.S.C. § 103. The Examiner is therefore respectfully requested to withdraw the rejection of Claim 1 and to allow this claim.

Claims 2-8, 12, 14, and 15

Claim 2-8, 12, 14, and 15 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Application Publication No. 2003/0172003 to Holbrook

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et al. in view of the Microsoft Press Computer Dictionary. This rejection is respectfully traversed for at least the following reasons.

Independent Claim 2 of the present invention, as amended, pertains to a method of forming a drawing of a system in which a plurality of components are combined based on component diagram data having drawings of the respective components stored on a component diagram database. In the method, component arrangement information including an arrangement of the components on the drawings are received from a component arrangement information and estimate information database, where the component diagram database comprises a physically separate database from the component arrangement information and estimate information database. In addition, drawing information of the system is generated as a bitmap object and stored in volatile memory.

Independent Claim 12 pertains to a drawing of a system that is formed by operation of the method recited in independent Claim 2.

Independent Claim 14 pertains to a computer program product stored on a computer readable storage medium for enabling a computer having a volatile memory and a processor to form a drawing of a system in which a plurality of components are combined with each other based on component diagram data having drawings of the respective components stored on a component diagram database. The computer program product is configured to cause a computer to receive component arrangement information including an arrangement of the components on the drawing from the component arrangement information and estimate information database, where the component diagram database comprises a physically separate database from the component arrangement information and estimate information

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database. In addition, the processor of the computer produces drawing information of the system as a bitmap object and the bit map object is stored in the volatile memory.

As discussed above, although Holbrook et al. discloses that his system can be practiced in a distributed computing environment, the Official Action has failed to establish that breaking up the operations of the server 104 and the database 106, such that they comprise a distributed computing environment yields the combination of components recited in independent Claims 2, 12, and 14. For instance, the Official Action has failed to establish that the proposed modification of Holbrook et al. would provide a separate component arrangement information and estimate information database for storing component arrangement information and estimate information and a component diagram database for storing the drawing-functional component diagram.

As such, the Official Action has at least failed to demonstrate that Holbrook et al. discloses the step of receiving component arrangement information including an arrangement of the components on the drawing from a component arrangement information and estimate information database, wherein the component diagram database comprises a physically separate database from the component arrangement information and estimate information database.

The Official Action relies upon the Microsoft Press Computer Dictionary for its disclosure of a bit map definition. Therefore, the Official Action has not and cannot reasonably rely upon the Microsoft Press Computer Dictionary to make up for the deficiencies in Holbrook et al. noted above. As such, even assuming for the sake of argument that Holbrook et al. could somehow be modified based upon the disclosure

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contained in the Microsoft Press Computer Dictionary, the proposed modification would still fail to yield the present invention as claimed in independent Claims 2, 12, and 14.

Accordingly, the proposed modification of Holbrook et al. based upon the disclosure contained in the Microsoft Press Computer Dictionary fails to yield all of the features of independent Claims 2, 12, and 14, and therefore, a *prima facie* case of obviousness has not been established under 35 U.S.C. § 103. The Examiner is therefore respectfully requested to withdraw the rejection of Claims 2, 12, and 14, and the claims that depend therefrom and to allow these claims.

Claims 4 and 6-8

Claims 4 and 6-8 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Application Publication No. 2003/0172003 to Holbrook et al. in view of the Microsoft Press Computer Dictionary and further in view of Official Notice. This rejection is respectfully traversed for at least the following reasons.

The Official Action has not and cannot reasonably rely upon the official notice taken to make up for the deficiencies in Holbrook et al. noted above with respect to independent Claim 2. As such, even assuming for the sake of argument that Holbrook et al. could somehow be modified based upon the disclosure contained in the Microsoft Press Computer Dictionary and the official notice, the proposed modification would still fail to yield the present invention as claimed in independent Claim 2.

Accordingly, Claims 4 and 6-8 are allowable at least by virtue of their dependencies upon allowable independent Claim 2.

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Claims 9-11, 13, 16, and 17

Claims 9-11, 13, 16, and 17 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Application Publication No. 2003/0172003 to Holbrook et al. in view of the Microsoft Press Computer Dictionary. This rejection is respectfully traversed for at least the following reasons.

Independent Claim 9 of the present invention, as amended, pertains to a method of forming a written estimate of a system in which a plurality of components are combined based on component diagram data having drawings of the respective components stored on a component diagram database and price data having price information of the respective components stored on a component arrangement information and estimate information database. In the method, component arrangement information including an arrangement of the components on the drawings are received from a component arrangement information and estimate information database, where the component diagram database comprises a physically separate database from the component arrangement information and estimate information database. In addition, drawing information of the system is generated as a bitmap object and stored in volatile memory. Furthermore, estimate information of the system based on the received component arrangement information and price data is generated.

Independent Claim 13 pertains to a written estimate of a system that is formed by operation of the method recited in independent Claim 9.

Independent Claim 16 pertains to a computer readable storage medium on which is stored a data structure used to display a written estimate of a system. The data structure includes drawing information of the system object based on component arrangement

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information and the component diagram data stored on the component diagram database.

The data structure also includes cost estimate information of the system which has been generated based on the component arrangement information and price data stored on the component arrangement information and estimate information database, where the component arrangement information and estimate information database comprises a physically separate database from the component diagram database

Independent Claim 17 pertains to a computer readable storage medium on which is stored a data structure used to display a written estimate of a system. The data structure includes drawing information of the system including a bitmap object including component arrangement information for the arrangement of the components on the drawing and the component diagram data stored on the component diagram database. The data structure also includes cost estimate information of the system including costs of the component arrangement and the price data stored on the component arrangement information and estimate information database, where the component arrangement information and estimate information database comprises a physically separate database from the component diagram database.

As discussed above, although Holbrook et al. discloses that his system can be practiced in a distributed computing environment, the Official Action has failed to establish that breaking up the operations of the server 104 and the database 106, such that they comprise a distributed computing environment yields the combination of components recited in independent Claims 9, 13, 16, and 17. For instance, the Official Action has failed to demonstrate that the proposed modification of Holbrook et al. would provide a separate component arrangement information and estimate information database for storing

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component arrangement information and estimate information and a component diagram database for storing the drawing-functional component diagram.

As such, the Official Action has at least failed to demonstrate that Holbrook et al. discloses the step of receiving component arrangement information including an arrangement of the components on the drawing and price data from a component arrangement information and estimate information database, where the component diagram database comprises a physically separate database from the component arrangement information and estimate information database.

The Official Action relies upon the Microsoft Press Computer Dictionary for its disclosure of a bit map definition. Therefore, the Official Action has not and cannot reasonably rely upon the Microsoft Press Computer Dictionary to make up for the deficiencies in Holbrook et al. noted above. As such, even assuming for the sake of argument that Holbrook et al. could somehow be modified based upon the disclosure contained in the Microsoft Press Computer Dictionary, the proposed modification would still fail to yield the present invention as claimed in independent Claims 9, 13, 16, and 17.

Accordingly, the proposed modification of Holbrook et al. based upon the disclosure contained in the Microsoft Press Computer Dictionary fails to yield all of the features of independent Claims 9, 13, 16, and 17, and therefore, a *prima facie* case of obviousness has not been established under 35 U.S.C. § 103. The Examiner is therefore respectfully requested to withdraw the rejection of Claims 9, 13, 16, and 17, and the claims that depend therefrom and to allow these claims.

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Newly Added Claims

New Claims 18 and 19 have been added to further define the scope of the invention. These claims are allowable over the cited documents of record at least by virtue of respective dependencies upon allowable Claims 2 and 9.

Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below.

Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

Dated: December 20, 2007

By



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